

REMARKS

35 USC § 112

The present amendments to claim 58 obviate the examiner's § 112 rejections under both paragraphs of § 112.

Applicant regards this amendment as non-narrowing and tangential to addressing the § 112 rejection. Applicant respectfully traverses the 112 rejection because the meaning of the claims is perfectly clear. Throughout the text and drawings of the present application a direction of insertion is referred to. Assigning a direction of insertion to an object such as an implant particularly points out and distinctly claims the structure of that implant. For example, the "barb" cross section of Figure 7 clearly resists withdrawal of the insertion in a first direction more than it would resist withdrawal in the opposite direction. Accordingly, as with any barb, reciting a direction of insertion will orient the reader towards the thin end of the barb. The other limitations recited are equally clear. The first recited thickness has a first radial distance or radius from the shaft, as indicated at reference number 8 in Figure 9. The second thickness is at a second radial distance as indicated at reference numbers 12, 13, 14 and 15. Given this antecedent basis, the recitation in claim 59 that the first radial distance, supported by the peripheral boundary of reference number 8 in Figure 9, varies as a direction around the shaft changes is perfectly clear. Because the varying widths of the first thickness and second thickness relative to the direction of insertion is clear, the amendment to the claims is not necessary to overcome the rejection and is made for other reasons. Additionally, the amendment does not narrow.

As amended, the claim recites an inner aspect of the base, supported by reference numeral 8 in Figure 9, which has a first thickness. The peripheral aspect is supported by reference numerals 12, 13, 14, 16 and 17 in Figure 9 and the accompanying text.

Claims 61 through 66 have been cancelled. Their claim scope is now embodied in new claims 69 through 71 and 75 through 78. Claim 69 recites that the first thickness is thicker than the second thickness. Claim 70 corresponds to Figure 9 depicting a peripheral area identified by reference numerals 12, 13, 14, 15 and 17 but does not fully circumscribe the entire base.

Claims 59 and 71 recite that a radial width, corresponding to the radial direction previously claimed, that is to say a distance from the shaft, varies for the area having the

first thickness (claim 59) and also for the area having the second, thinner thickness (claim 71).

Claims 75 through 78 further describe the boundary dimensions of the thicker, inner aspect of the embodiment depicted in Figures 8, 9 and 10. They are supported by Figures 8, 9 and 10 and the accompanying text on page 9. They recite a width, relative to a leading edge or direction of insertion, not a radial width.

35 USC § 102

Per agreement in the interview, the amendments regarding the terminal end of the shaft, together with the other amendments, overcome the Albrektsson reference.

35 USC § 103

Each of the § 103 rejections of dependent claims uses the Albrektsson reference as a primary reference. Because the independent claims now avoid that reference by agreement, the amendments to the claims also overcome the § 103 rejections.

Interview


The amendments herein first correct a number of typographical errors, for example in 45 (a comma), 46 and 49 (plurals).

The amendments herein proposed also embody agreements between the applicant's counsel and examiner during an interview. These include clarification that the base claimed to be at the end of the "post" earlier are in fact at the end of the overall shaft. Also per agreement, claim 42 has been amended to state that both the top and bottom surfaces are disposed for osseo integration. These amendments merely clarify what was, in applicant's understanding, adequately pointed out and distinctly claimed in the foregoing claims submitted as well as inherent in the earlier claims. Accordingly, these tangential changes do not narrow the claims.

Conclusion

Applicants submit that the amendments herein put the claims in condition for allowance.

Respectfully submitted,



By: Robert C. Haldiman, Reg. No. 45,437
Husch & Eppenberger, LLC
190 Carondelet Plaza
St. Louis, MO 63105
314-480-1641
314-480-1505 FAX